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Attorneys for Plaintiff  
 KIM SENG COMPANY, a California corporation

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

KIM SENG COMPANY, a California corporation,

Plaintiff,

v.

J & A IMPORTERS, INC., a corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.

**COMPLAINT FOR:**

1. **UNFAIR COMPETITION (Trade Dress) (15 U.S.C. § 1125(a))**
2. **COPYRIGHT INFRINGEMENT (17 U.S.C. § 501(a))**
3. **CALIFORNIA UNFAIR COMPETITION**
4. **COMMON LAW UNFAIR COMPETITION**

**DEMAND FOR JURY TRIAL**

This case involves the distribution and sale of infringing dry food Package Designs by an importer of Asian foods in the Los Angeles area. Plaintiff KIM SENG COMPANY, a California corporation, ("KIM SENG") hereby alleges as follows:

**JURISDICTION AND VENUE:**

1. This action arises under the Copyright Act of the United States (17 U.S.C. §§ 101 et seq.) and Lanham Act of the United States (15 U.S.C. §§ 1114 et

1 seq.).

2 2. This Court has subject matter jurisdiction of this action pursuant to 28  
3 U.S.C. § 1331, 1332, 1338 and 1367; and 15 U.S.C. §§ 1114, 1116, 1121 and 1125.

4 3. Venue is proper in the Central District of California pursuant to 28  
5 U.S.C. § 1391 since the Defendants are domiciled in the Central District of  
6 California and/or conduct business activities within this District. Further, venue is  
7 appropriate since a substantial portion of the acts complained of herein were  
8 committed by each of the Defendants within this District.

9 4. This Court has personal jurisdiction over Defendant in that Defendant  
10 is a corporate entity registered and domiciled in this jurisdiction, and its willful  
11 actions herein alleged took place in and/or caused tortious injury to KIM SENG in  
12 this jurisdiction.

### 13 **THE PARTIES:**

#### 14 **Plaintiff:**

15 5. KIM SENG is a corporation organized and existing under the laws of  
16 the State of California, having its principal place of business at 6121 Randolph St.,  
17 City of Commerce, CA 90040.

#### 18 **Defendants:**

19 6. KIM SENG is informed and believes that defendant, J&A  
20 IMPORTERS is a corporation organized and existing under the laws of the State of  
21 California, having its principal place of business in Vernon, California 90023.

22 7. Defendants DOES 1-25, upon information and belief, are individuals  
23 and business entities, which conduct business within this Judicial District.

### 24 **GENERAL ALLEGATIONS:**

25 8. KIM SENG imports, sells and/or distributes in interstate commerce  
26 dry foods and canned and bottled foods with a substantial shelf life, such as rice  
27 sticks, rice noodles, fish sauce, and other related products. KIM SENG owns the  
28 rights in certain copyrights, trademarks and trade dress associated with these goods.

1           9. In or about 2002, KIM SENG created a package design, as shown in  
2 Exhibit A (the “Kim Seng Package Design”). KIM SENG is the originator of the  
3 Kim Seng Package Design and is the owner of, and/or the only person or entity  
4 authorized to use, the original copyrightable subject matter, including but not  
5 limited to the photograph, the comprises the Kim Seng Package Design.

6           10. Since 1998, KIM SENG has used, and continues to use, the Kim Seng  
7 Package Design in interstate commerce in connection with the sale and distribution  
8 of a number of KIM SENG products. KIM SENG’s products dry food products  
9 have been and are available for purchase through a number of retailers throughout  
10 the country.

11           11. Upon information and belief, Defendant develops, manufactures,  
12 markets, offers for sale, and/or distributes in commerce a line of Asian dry foods.  
13 Upon information and belief, Defendant’s products are marketed for use by  
14 Chinese, Vietnamese and other peoples of predominantly Asian descent in  
15 California and elsewhere in the United States.

16           12. Upon information and belief, Defendant’s products, including its dry  
17 food products, are available for purchase through a number of retailers throughout  
18 the country.

19           13. Upon information and belief, Defendant recently adopted the design  
20 depicted by Exhibit “B” (the J&A Package Design). The J&A Package Design  
21 utilizes the very same appearance, with slight alteration, as KIM SENG’s Kim Seng  
22 Package Design, depicting rice noodles and cut egg rolls, angled atop a dark  
23 ceramic bowl, displayed with cut meats and peppers, in conjunction with a brilliant  
24 yellow background, highlighted by red piping—two horizontal red bands—along  
25 with stylized fonts for “rice stick” and descriptive words located above the bowl.  
26 The J&A Package Design is evocative of KIM SENG’s design elements and is  
27 strikingly similar to the Kim Seng Package Design.

28 ///

**FIRST CLAIM FOR RELIEF**

**UNFAIR COMPETITION (Trade Dress Infringement)**

14. KIM SENG incorporates by reference paragraphs 1 through 13, inclusive, as if fully set forth herein.

15. The Kim Seng Package Design trade dress is consists of the following non-functional, unique, and distinctive combination of design elements: the front of the package depicts and is dominated by a dark plate on which is placed contrasting white rice noodles, with cut egg rolls at a certain angle, meats at a certain angle adjoining the cut egg rolls, and cut peppers placed at certain locations on the rice noodles, all arranged in a certain way, with a brilliant yellow background, bordered above the plate by two horizontal red bands (one wider than the other) and a border below the plate of four horizontal bands (of decreasing widths), and various Vietnamese words in a combination of Chinese and English letters with some lettering above the upper part of the plate, all as depicted in Exhibit A. There are countless alternative designs available, and the design elements are not covered by any utility patents.

16. The J&A Package Design, which was adopted after the Kim Seng Package Design trade dress had been on the market, is strikingly similar to the Kim Seng Package Design trade dress in overall look, appearance and commercial impression, so as to create a false suggestion of an affiliation or connection with KIM SENG.

17. Upon information and belief, the extent of similarity between Defendant's J&A Package Design and the Kim Seng Package Design trade dress and other elements of the package demonstrates that Defendant's copying of the Kim Seng Package Design trade dress is intentional and that Defendant's unlawful conduct is willful.

18. KIM SENG has spent substantial time, effort, and money in designing, developing, advertising, promoting, marketing, and selling its Kim Seng Package

1 Design in commerce.

2 19. The Kim Seng Package Design has developed a strong reputation for  
3 quality in the Asian dry goods and nonperishable food product industry.

4 20. KIM SENG has expended considerable effort and expense in  
5 promoting the Kim Seng Package Design and the goods offered there under in the  
6 United States.

7 21. KIM SENG has built substantial goodwill in the Kim Seng Package  
8 Design, and it is a valuable asset of KIM SENG.

9 22. Since the launch of the Kim Seng Package Design in 2002, KIM  
10 SENG has dedicated funds to promoting its products, and in light of its promotional  
11 efforts and the novelty of its products, the Kim Seng Package Design have become  
12 exceptionally popular. Upon information and belief, as a result of these efforts, the  
13 Kim Seng Package Design and the distinctive design embodied therein, is now  
14 widely known and recognized in this district and elsewhere as signifying products  
15 emanating from and authorized by KIM SENG, such that it has acquired secondary  
16 meaning. Upon information and belief, Defendant's intentional copying of the Kim  
17 Seng Package Design Trade Dress is further evidence that KIM SENG' Kim Seng  
18 Package Design has acquired secondary meaning.

19 23. Upon information and belief, the overall visual impression created by  
20 the Package Design Trade Dress constitutes inherently distinctive and protectable  
21 trade dress.

22 24. Upon information and belief, the distinctive packaging elements  
23 embodied in the Kim Seng Package Design have come to be a recognized indicator  
24 of KIM SENG and the Kim Seng Package Design, such that purchasers and  
25 prospective purchasers of Asian dry foods products recognize and identify the Kim  
26 Seng Package Design trade dress with a single source, KIM SENG.

27 25. Upon information and belief, the Kim Seng Package Design trade  
28 dress has acquired secondary meaning as an identifier of products of KIM SENG.



1 Upon information and belief, Defendant's intentional copying of the Kim Seng  
2 Package Design Trade Dress is further evidence of the inherently distinctive nature  
3 of KIM SENG' Kim Seng Package Design.

4 26. Upon information and belief, the Kim Seng Package Design trade  
5 dress is an uncommon and distinctive packaging.

6 27. The Kim Seng Package Design trade dress is non-functional in that  
7 there are an unlimited number of layouts, depictions, color combinations, designs,  
8 including ornamental designs, and combinations, available to Defendant to enable it  
9 to package its own products without copying the Kim Seng Package Design trade  
10 dress. The Kim Seng Package Design trade dress is not dictated by the nature of  
11 the package or the product in the package. Accordingly, Defendant need not copy  
12 the Kim Seng Package Design trade dress to compete in the relevant food market.

13 28. KIM SENG has not granted a license or any other form of permission  
14 to Defendant or anyone else to use the Kim Seng Package Design trade dress.

15 29. On information and belief, Defendant adopted the J&A Package  
16 Design with knowledge of, and the intent to call to mind, create a likelihood of  
17 confusion with regard to, and/or trade off of the goodwill associated with the Kim  
18 Seng Package Design.

19 30. Both KIM SENG and Defendant offer their products through the same  
20 channels of trade, i.e., third-party retail stores that specialize in Asian food  
21 products.

22 31. Defendant's continued use of the J&A Package Design will injure  
23 KIM SENG by causing the public to be confused or mistaken into believe that the  
24 goods offered by Defendant are endorsed by, sponsored by, or affiliated with KIM  
25 SENG.

26 32. KIM SENG has no control over the nature and quality of the goods  
27 offered by Defendant under the J&A Package Design, and KIM SENG's reputation  
28 and goodwill will be damaged and the value of the Kim Seng Package Design

1 jeopardized by Defendant's continued use of the J&A Package Design. Because of  
2 the likelihood of confusion between the parties' trade dress, defects, objections, or  
3 faults found with Defendant's products could negatively reflect upon and injure the  
4 reputation of KIM SENG.

5 33. Upon information and belief, Defendant has misappropriated and used  
6 and continues to use the Kim Seng Package Design Trade Dress on Defendant's  
7 packaging without KIM SENG's authority or permission. Defendant will  
8 manufacture, import, market, advertise and/or sell its products under the J&A  
9 Package Design to profit from the demand that KIM SENG created by its Kim Seng  
10 Package Design, and to trade on KIM SENG's goodwill in the Kim Seng Package  
11 Design Trade Dress.

12 34. Upon information and belief, Defendant's acts as alleged herein  
13 constitute unfair competition and false designation of origin.

14 35. Upon information and belief, the presence of the J&A Package Design  
15 in the marketplace damages the value of the Kim Seng Package Design, and is  
16 likely to confuse or mislead purchasers to buy Defendant J&A IMPORTER's  
17 products believing the J&A products are from or affiliated with Kim Seng.

18 36. Defendant's acts as alleged above, if not enjoined, will continue. KIM  
19 SENG has no adequate remedy at law in that the amount of its damages is difficult  
20 to ascertain with specificity.

21 37. Upon information and belief, KIM SENG will lose revenue as the  
22 direct result of Defendant's use of the Package Design Trade Dress. As a result of  
23 Defendant's infringement of the Kim Seng Package Design, KIM SENG has  
24 incurred damages in an amount to be proven at trial consisting of, among other  
25 things, diminution in the value of and goodwill associated with the Kim Seng  
26 Package Design.

27 38. Upon information and belief, Defendant's conduct will deprive KIM  
28 SENG of opportunities for expanding its business and goodwill.

39. Upon information and belief, Defendant J&A IMPORTER intends to continue its course of conduct and to wrongfully use, infringe upon, sell, and otherwise profit from the sale of its rice stick products using the Package Design Trade Dress in a manner that is confusingly similar to that of KIM SENG.

40. KIM SENG has no adequate remedy at law to redress the injuries that Defendant has caused and intends to cause by its conduct. Upon information and belief, KIM SENG has sustained and will continue to sustain irreparable damage and lost profits until Defendant's actions alleged above are enjoined by this Court.

41. KIM SENG is entitled to recovery any and all profits Defendant has made from its use of the infringing J&A Package Design.

42. Defendant's actions alleged herein infringe and will continue to infringe KIM SENG' Kim Seng Package Design Trade Dress, because Defendant's actions are likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1125(a).

43. Defendant's wrongful use of the Kim Seng Package Design Trade Dress is deliberate, willful, fraudulent, and without any extenuating circumstances, and constitutes a knowing use of the Kim Seng Package Design Trade Dress. KIM SENG is therefore entitled to recover three times the amount of its actual damages and the attorneys' fees and costs incurred in this action, and prejudgment interest.

## **SECOND CLAIM FOR RELIEF**

### **COPYRIGHT INFRINGEMENT**

44. KIM SENG incorporates by reference paragraphs 1 through 43, inclusive, as if fully set forth herein.

45. The Kim Seng Package Design includes copyrightable subject matter. KIM SENG is the owner of the copyright rights in the original copyrightable subject matter, including but not limited to the food plate depiction and the photograph of that depiction, included in the Kim Seng Package Design ("the Work"). Kim Seng is the only person or entity authorized to make copies of the



1 Work.

2 46. On or about March 10, 2003, this Kim Seng Package Design was  
3 registered for copyright protection with the U.S. Copyright Office as Registration  
4 No. VA 1-190-640. A true and correct copy of the original registration is attached  
5 hereto as Exhibit "C".

6 47. Since 2002 Kim Seng's Work has been publicly displayed in grocery  
7 stores specializing in Asian food products.

8 48. Defendants made, or caused others to make, unauthorized copies or  
9 unauthorized derivatives of the KIM SENG Work and/or important elements of the  
10 Work, including but not limited to the photograph.

11 49. Upon information and belief, the extent of similarity between  
12 Defendant's J&A Package Design and the Kim Seng Package Design demonstrates  
13 that the copying and/or making derivative(s) of the Work is intentional and that  
14 Defendant's unlawful conduct is willful.

15 50. As a proximate cause of Defendants' infringement, KIM SENG is  
16 suffering irreparable harm. KIM SENG is entitled to an injunction restraining  
17 Defendant and all persons acting in concert with it from engaging in any further  
18 acts of copyright infringement.

19 51. KIM SENG is entitled to recover from Defendant both the damages he  
20 has suffered and the profits derived by Defendant from its infringing conduct.  
21 Alternatively, KIM SENG can elect to receive statutory damages under 17 U.S.C. §  
22 504(c). KIM SENG is also entitled to recovery his attorney's fees and the costs of  
23 this action.

### 24 **THIRD CLAIM FOR RELIEF**

#### 25 **CALIFORNIA UNFAIR COMPETITION (B&P § 17200)**

26 52. KIM SENG incorporates by reference paragraphs 1 through 54,  
27 inclusive, as if fully set forth herein.

28 53. By the acts described herein, Defendant has engaged in unlawful and

1 unfair business practices that have injured and will continue to injure KIM SENG  
2 in its business and property, in violation of California Business & Professions Code  
3 §§ 17200, et seq.

4 54. Defendant's acts as alleged herein have and will continue to cause  
5 monetary damages to KIM SENG, and have caused, and will continue to cause,  
6 irreparable injury to KIM SENG and its business, reputation, and goodwill, unless  
7 and until Defendant is permanently enjoined.

#### 8 **FOURTH CLAIM FOR RELIEF**

#### 9 **COMMON LAW UNFAIR COMPETITION**

10 55. KIM SENG incorporates by reference paragraphs 1 through 58,  
11 inclusive, as if fully set forth herein.

12 56. Defendant has engaged in and continues to engage in unfair  
13 competition by using the Kim Seng Package Design Trade Dress, on information  
14 and belief, with the intention of interfering with or trading on the business  
15 reputation and good will engendered by KIM SENG.

16 57. Defendant's acts have caused KIM SENG competitive injury, as  
17 described herein, and specifically have caused KIM SENG to incur damages in an  
18 amount to be proven at trial consisting of, among other things, diminution in the  
19 value of and goodwill associated with the Kim Seng Package Design.

20 58. As a direct and proximate result of Defendant's conduct alleged  
21 herein, Defendant has been unjustly enriched and should be ordered to disgorge any  
22 and all profits that it earns or has earned as a result of such unlawful conduct.

23 59. Defendant's acts as alleged above, if not enjoined, will continue. KIM  
24 SENG has no adequate remedy at law in that the amount of its damages is difficult  
25 to ascertain with specificity.

26 60. Defendant's acts as alleged herein constitute unfair competition under  
27 California common law.

28 ///

**PRAYER FOR RELIEF**

Wherefore, KIM SENG prays:

1. That this Court grant preliminary and permanent injunctive relief enjoining Defendant, its parent, affiliate, subsidiary companies, and all others acting in concert with or having knowledge thereof:

- (a) from making or causing to be made, and from importing, advertising or promoting, distributing, selling or offering to sell any merchandise that infringes KIM SENG's copyright, trademarks, or trade dress;
- (b) from making or causing to be made copies of the KIM SENG Work;
- (c) from making or causing to be made derivative works of the KIM SENG Work;
- (d) from infringing the Kim Seng Package Design;
- (e) from utilizing any package design that is similar to the Kim Seng Package Design as to be likely to cause confusion as to source or sponsorship and from committing any other act that is likely to cause confusion, mistake, or deception as to the source or sponsorship of the packages or the product in the packages distributed by Defendant;
- (f) from falsely representing themselves as being connected with KIM SENG through sponsorship or association, or engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods of Defendants are in any way endorsed by, approved by, and/or associated with KIM SENG.

2. That this Court order Defendant, its parent, affiliate, subsidiary companies, and all others acting in concert with or having knowledge thereof to recall from all distributors, wholesalers, dealers, and retailers, and others known to Defendant, (1) any products that infringe the Kim Seng Package Design.

3. That this Court enter an award to KIM SENG of such damages as it

Ropers Majeski Kohn & Bentley  
 A Professional Corporation  
 Los Angeles

shall prove at trial against Defendant that are adequate to compensate KIM SENG for Defendant's trade dress infringement and unfair competition, and all profits realized by Defendant, its parent, affiliate, subsidiary companies, and all others acting in concert with or having knowledge thereof, from Defendant's unauthorized use and infringement of the Kim Seng Package Design.

4. That this Court enter an award to KIM SENG of such damages as it shall prove at trial against Defendant that are adequate to compensate KIM SENG for Defendant's copyright infringement, and all profits realized by Defendant, its parent, affiliate, subsidiary companies, and all others acting in concert with or having knowledge thereof, from Defendant's unauthorized use and infringement of the KIM SENG copyrighted work.

5. That this Court award KIM SENG the costs of this action and reasonable attorney's fees and expenses;

6. Award damages, trebled for willful infringement;

7. Award disgorgement of Defendants' revenues;

8. Award statutory damages from each of the Defendants as provided by 15 U.S.C. §1117(c) and 17 U.S.C. 504(c);

9. Award pre-judgment interest;

10. Award costs and reasonable attorneys' fees; and

11. That this Court grant such other and further relief as it should deem just.

Dated: February 2, 2010

ROPERS, MAJESKI, KOHN & BENTLEY

By: 

ERNEST E. PRICE  
 ARNOLD E. SKLAR  
 Attorneys for Plaintiff  
 KIM SENG COMPANY


**DEMAND FOR JURY TRIAL**

KIM SENG hereby demands a trial by jury of the causes of action and claims asserted herein.

Dated: February 2, 2010

ROPERS, MAJESKI, KOHN & BENTLEY

By: \_\_\_\_\_

  
ERNEST E. PRICE  
ARNOLD E. SKLAR  
Attorneys for Plaintiff  
KIM SENG COMPANY

Ropers Majeski Kohn & Bentley  
A Professional Corporation  
Los Angeles



**EXHIBIT A**



**RICE STICK**

**新鮮家鄉米粉**

*Hiện Quê Hương Bún Tươi Đặc Biệt*

**Bún Chả Giò Thịt Nướng**



Serving Suggestion

NET WT.:35.2oz.(2.2LBS.)(1000g)

EXHIBIT B





**Bún Tuổi Đặc Biệt**  
**Bún Thịt Nướng Chả Giò**  
***RICE STICK***

**新鮮米粉**



Serving Suggestion

NET WT. : 35.2 oz. (2.2LBS.) (908g)



EXHIBIT C



## CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

FORM VA  
For a Work of the Visual Arts

UI  
RI VA 1-190-640



EFFECTIVE DATE OF REGISTRATION

MAR 10 2003

Month Day Year

OFFICIAL SEAL DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of This Work ▼

*Que Huong Bun Cha Gio Thit Nuong*

NATURE OF THIS WORK ▼ See Instructions

*Packaging Design*

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

*Kim Seng Company*

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☒ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR Citizen of  
Domiciled in *California Corp.*

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☒ 2-Dimensional artwork ☒ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Name of Author ▼

Dates of Birth and Death  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR Citizen of  
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was Completed

*1998*

This information must be given in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month *January* Day *5* Year *1998*  
U.S.A.

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

*Kim Seng Company  
1561 Chapin Road  
Montebello, CA 90640*

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

MAR 10 2003  
ONE DEPOSIT RECEIVED  
MAR 10 2003

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

See Instructions before completing this space.

MORE ON BACK ►

• Complete all applicable spaces (numbers 5-8) on the reverse side of this page.  
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

EXAMINED BY Jfb

FORM VA

CHECKED BY \_\_\_\_\_

☐ CORRESPONDENCE

Yes

FOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

a 6  
See instructions  
before completing  
this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Kim Seng Company  
1561 Chapin Road  
Montebello, CA 90640

Area code and daytime telephone number (323) 724-8551

Fax number (323) 724-1408

Email

CERTIFICATION\* I, the undersigned, hereby certify that I am the

check only one ►

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of

Kim Seng Co.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

GARY TSAI

Date 1/23/03

Handwritten signature (X) ▼

X

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name ▼	Kim Seng Company
Number/Street/Apt ▼	1561 Chapin Road
City/State/ZIP ▼	Montebello, CA 90640

\* Complete all necessary spaces  
\* Sign your application in space 8

1. Application form  
2. Nonrefundable filing fee in check or money  
order payable to Register of Copyrights  
3. Deposit material

Library of Congress  
Copyright Office  
101 Independence Avenue, S.E.  
Washington, D.C. 20540-8000

Fee are subject to  
change. For current  
fees, consult the  
Copyright Office  
website at  
www.copyright.gov  
or call the Copyright  
Office, or call  
(202) 707-9000.

\*17 U.S.C. § 508(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

**CV10 - 742 CAS (MANx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
CENTRAL DISTRICT OF CALIFORNIA

KIM SENG COMPANY, a California corporation,

*Plaintiff*

v.

J & A IMPORTERS, INC., a corporation; and DOES  
1 through 50, inclusive,

*Defendant*

CV10 0742 CAS (MANX)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

J & A IMPORTERS, INC., a corporation  
4398 Ayers Avenue  
Vernon, CA 90023

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ernest E. Price (SBN 164534)/Arnold E. Sklar (SBN 51595)  
Ropers Majeski Kohn & Bentley  
515 South Flower Street, Suite 1100  
Los Angeles, CA 90071  
Phone: (213) 312-2000 Fax: (213) 312-2001

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

CHRISTOPHER POWERS

FEB - 2 2010

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



## CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)  
KIM SENG COMPANY, a California corporation

DEFENDANTS  
J & A IMPORTERS, INC., a corporation; and DOES 1 through 50, inclusive,

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  
Ernest E. Price (SBN 164534)/Arnold E. Sklar  
Ropers Majeski Kohn & Bentley (SBN 51595)  
515 South Flower Street, Suite 1100  
Los Angeles, CA 90071  
Phone: (213) 312-2000/Fax: (213) 312-2001

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☐ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

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## VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> FORFEITURE / PENALTY	<input type="checkbox"/> PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input checked="" type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: CV10 0742

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.



VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
 Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

  
 Ernest E. Price

Date February 2, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))